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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,026	12/30/2003	John C. Clark	59487US002	6519

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,026

Applicant(s)

CLARK ET AL.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/04, 04/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 12 is indefinite for the use of the phrase “wherein said *secondary* backing is intermediate to said primary backing and said *secondary* backing.”

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 and 6-10 are rejected under 35 USC 102(b) as being anticipated by US 4,643,930 issued to Ucci.

Applicant claims a carpet comprising face pile secured into a primary backing and an impermeable hydrophobic barrier bonded to said primary backing, wherein substantially the entire surface of the face yarn which is not encased within at least one of said barrier or said primary backing is hydrophobic. Said face yarn may be polyolefin, polyamide, polyester (PET),

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PTT, natural fibers or mixtures thereof. The primary backing is made of polyolefin, polyamide, natural fibers, or mixtures thereof. The barrier is either bonded to the back surface of the primary backing with an adhesive or it self-adheres directly to said primary backing. The barrier may impregnate at least a portion of the primary backing and be in direct contact with some of the face yarns. The exposed portion of the face yarn may be coated with a repellent/stainblocker. Said carpet may also include a secondary backing that is bonded directly to the back face of the primary backing.

Ucci discloses a carpet having stain resistant pile fibers and a backing that is substantially impervious to liquids (abstract). Specifically, nylon pile yarn is tufted into a primary backing made of jute or polypropylene (col. 2, lines 55-62). An adhesive backcoat is applied to secure said tufts (col. 2, lines 62-63). Said adhesive backcoat includes a fluorochemical in an amount sufficient to render the backcoat a barrier to liquids (col. 2, lines 63-66). In an alternative embodiment, the adhesive backcoat is not rendered impermeable by the addition of a fluorochemical, but rather said backcoat is coated with a water-impervious film (col. 3, lines 32-38). Additionally, the pile fibers are coated with an effective amount of fluorochemical (col. 2, lines 66-68). Thus, Ucci anticipates applicant's claims 1-4 and 6-10.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-5 and 10-12 are rejected under 35 USC 103(a) as being unpatentable over US 5,612,113 issued to Irwin, Sr.

Irwin discloses a carpet including face pile yarns tufted through a primary backing and a secondary backing attached thereto (abstract). the carpet also includes a liquid impervious thermoplastic film bonded to either the rear of the primary backing or to the rear of the secondary backing (abstract). A hot melt adhesive or other non-aqueous adhesive is employed to bond the film to the primary or secondary backing (abstract). When said film is bonded to the rear of the primary backing, a hot melt adhesive, which also acts as a precoat, is employed (col. 3, lines 4-31).

Thus, Irwin teaches the present invention with the exception that the pile yarns are hydrophobic. Irwin fails to teach fiber types suited for the face yarns. As such, one can presume that the face fiber is not critical to the invention and one can look to the prior art for suitable fiber types. Applicant is hereby given Official Notice that common face yarns include polyester, polypropylene, and nylon fibers. Additionally, it is well known in the art that these fibers are inherently hydrophobic. As such, it is argued that it would have been obvious to one skilled in the art to select face fibers such as these wherein applicant's limitation that the face fibers are hydrophobic is met. Therefore, claims 1-5 and 10-12 are rejected as being obvious over the cited Irwin reference.

8. Claim 9 is rejected under 35 USC 103(a) as being unpatentable over US 5,612,113 issued to Irwin, Sr. in view of the cited Ucci patent.

While Irwin fails to explicitly teach treating the face fibers of a carpet with a repellent or stainblocker, said treatment is known in the art. As discussed above, Ucci treats face fibers with

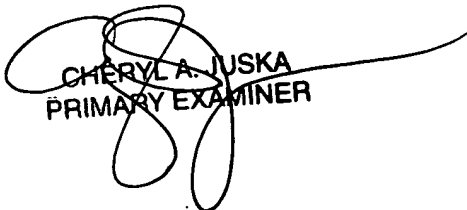
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a fluorochemical in order to render them resistant to stains and hydrophobic. Therefore, it would have been readily obvious to one skilled in the art to treat the carpet of Irwin with a fluorochemical in order to prevent the carpet from spills and soiling. Hence, claim 9 is rejected.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CHERYL A. JUSKA
PRIMARY EXAMINER

cj
October 3, 2005